

## **CITY OF MENASHA**

### **SEXUAL HARASSMENT AND DISCRIMINATION POLICY**

All employees are responsible for assuring that the work place is free from sexual harassment. The purpose of this policy is to maintain a healthy work environment in which all individuals are treated with respect and dignity and to provide procedures for reporting, investigating, and resolving complaints of harassment and discrimination. Federal and State law provides for the protection of classes of persons based on race, color, sex, religion, age, disability, national origin and sexual orientation.

It is the policy of the City of Menasha that all employees have the right to work in an environment free from all forms of harassment. The City will not tolerate, condone, or allow harassment by employees, whether sworn (regular or reserve), civilian, volunteer, or other non-employees, who conduct business with the City. Menasha considers harassment and discrimination of any form to be serious employee misconduct. Therefore, the City shall take direct and immediate action to prevent such behavior, and to remedy all reported instances of harassment and discrimination. A violation of this policy can lead to discipline up to and including termination, with repeated violations, even if “minor”, resulting in greater levels of discipline as appropriate. This policy applies to all employees, elected officials or appointed members of councils, boards, commissions, or committees, as well as all co-op students, outside vendors, contractors, volunteers, or any other person who has business with the City of Menasha.

Sexual harassment is a form of unlawful discrimination that undermines the integrity of the employment relationship. All employees must be allowed to work in an environment free from unsolicited and unwelcome sexual overtures. Sexual harassment does not refer to occasional compliments or other generally acceptable social behavior. It refers instead to behavior, which is unwelcome, personally offensive, undermining, or weakening to employee morale. Sexual harassment, therefore, interferes with the work effectiveness of its victims and their co-workers.

1. Prohibited sexual harassment or discrimination includes, but is not limited to conduct, implicit or explicitly implied which constitutes:
  - A. Unwelcome physical contact or gestures.
  - B. Unwelcome sexually explicit language or gestures, including sexually degrading words used to describe an individual or sexually graphic or suggestive comments to or about an individual.
  - C. Uninvited or unwanted sexual advances or requests for sexual favors.
  - D. Making submission to, or rejections of, such conduct a factor in the employment decisions affecting the employee.
  - E. Permitting such conduct to interfere with an employee's work performance, or to create a hostile, intimidating, or offensive work environment.
  - F. An offensive overall environment including the use of vulgar language, the presence of employee's sexually explicit photographs or other materials, and the telling of sexual stories.
  - G. Ridiculing, mocking, deriding, or belittling any other person.

- H. Any offensive or derogatory comments to any person, either directly or indirectly, based on race, color, sex, religion, disability, sexual orientation, or national origin. Such harassment is a prohibited form of discrimination under state and federal employment law and is also considered misconduct subject to disciplinary action by the City.
  - I. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:
    - (a) submission to such conduct is made either explicitly or implicitly a term or condition of employment; or
    - (b) submission or acquiescence to such conduct by an employee is used as the basis for employment decisions affecting the employee, or
    - (c) Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment.
2. Sexual harassment by an employee, supervisor, manager, or any other person will not be tolerated. All supervisors, administrators and employees, as part of their job requirements, are responsible for preventing and eliminating sexual harassment in their respective work areas. Each supervisor shall be responsible for taking all reasonable measures with the goal of preventing acts of harassment. This responsibility includes the following:
- A. Monitoring the unit work environment on a daily basis for signs that harassment may be occurring;
  - B. Counseling all employees on the types of behavior prohibited; and the City's procedures for reporting and resolving complaints of harassment;
  - C. Stopping any observation that may be considered harassment, and taking appropriate steps to intervene, whether or not the involved employees are within his/her line of supervision;
  - D. Taking immediate action to prevent retaliation towards the complaining party and to eliminate the hostile work environment where there has been a complaint of harassment, pending investigation, or any direct observation. If a situation requires separation of the parties, care should be taken to avoid actions that appear to punish a complainant. Transfer or reassignment of any of the parties involved should be voluntary, if possible and, if non-voluntary, should be temporary pending the outcome of the investigation.
  - E. Failing to carry out these responsibilities will be considered in any evaluation or promotional decisions and may be grounds for discipline.

Each supervisor has the responsibility to assist any employee of the City who comes to that supervisor with a complaint of harassment in documenting and filing a complaint with the Personnel Department.

Each employee of the City is responsible for assisting in the prevention of harassment through the following acts:

- a. Refraining from participation in, or encouragement of, actions that could be perceived as harassment;
- b. Reporting acts of harassment to a supervisor; and

- c. Encouraging any employee who confides that he or she is being harassed or discriminated against to report these acts to a supervisor.

Failure of any employee to carry out the above responsibilities will be considered in any performance evaluation or promotional decision and may be grounds for discipline.

3. Each employee, if such employee feels comfortable doing so, who believes that he or she has been the subject of sexual harassment or discrimination should promptly take the following steps:
  - A. Firmly state to the person who is doing the harassing how you feel about his or her actions and request that the person cease such behavior immediately.
  - B. If the harassment continues or if you believe some employment consequences may result from your request that the action stop, report the matter as soon as possible to the Department Head, Personnel Director, Public Health Director or the Mayor.
  - C. Document all incidents of harassment in order to provide the fullest basis for the investigation.
  - D. The supervisor to whom the incident is reported shall meet with the employee and document the incident(s) complained of, the person(s) performing or participating in the harassment, any witnesses to the incident(s), and any relevant date(s).

Any employee who believes that it is not practical to file his/her complaint directly with the City or any of the appropriate City officials may file the complaint with either:

- a. State Equal Rights Agency  
819 North 6<sup>th</sup> Street  
Milwaukee, WI 53203  
(414) 227-4384
- b. EEOC  
310 W. Wisconsin Ave. Suite 800  
Milwaukee, WI 53203  
(414) 297-1111

If the employee exercises either of these options, a copy of the complaint must be filed with the City Attorney within 24 hours of filing of the complaint.

4. The internal investigation authority shall be responsible for investigating any complaint alleging harassment or discrimination. The internal investigation authority shall consist of the Personnel Director and the Public Health Director.
  - A. The internal investigative authority shall immediately notify the Mayor or Council President and the prosecutor's office if the complaint contains evidence of criminal activity such as battery or sexual assault or attempted assault.
  - B. The investigative authority shall determine whether the person is harassing other employees, and whether other employees participated in or encouraged the harassment.
  - C. The internal investigative authority shall inform the parties involved of the outcome of the investigation.

- D. The Personnel Director and/or the Mayor shall maintain a file of harassment and discrimination complaints in a secure location. The Mayor shall be provided with an annual summary of these complaints.

It is the policy of the City to listen to all reasonable complaints, thoroughly investigate all relevant material, seek early corroboration, and quickly apply sanctions when appropriate. An investigation will be undertaken to determine the facts of the complaint. The investigation will include conferring with the parties and witnesses named by the complaining employee. Because of its sensitive nature, complaints of sexual harassment will be investigated with particular care and should remain, to the extent possible, confidential. **There will be no retaliation against anyone who complains or serves as a witness during an investigation.** The complaining party's confidentiality will be maintained throughout the process to the extent practical and appropriate under the circumstances.

Complainants or employees accused of harassment may file a grievance/appeal in accordance with provisions of the relevant Collective Bargaining Agreement or under the Personnel Policy Handbook.

This policy does not preclude any employee from filing a complaint or grievance with an appropriate outside agency, forum, or Court of law.

5. Retaliation against any employee for filing a harassment or discrimination complaint, or for assisting, testifying, or participating in the investigation of such a complaint, is illegal and is prohibited by the City and by State and Federal law.

Retaliation is a form of employee misconduct. Any evidence of retaliation shall be considered a separate violation of this policy and shall be handled by the same complaint procedures established for the harassment and discrimination complaints. Monitoring to ensure that retaliation does not occur is the responsibility of the Mayor, Department Heads, supervisors and the investigative authority.

After appropriate investigation, any employee found to have sexually harassed another employee will be subject to appropriate disciplinary action, up to and including discharge.

The City recognizes that the question of whether a particular action or incident is a purely personal, social matter without a discriminatory affect requires a determination based on the facts of the incident. The City also recognizes that false accusations of sexual harassment can have serious adverse effects. The City expects all employees to act honestly and responsibly in complying with and enforcing this policy. It is the City's desire to continue providing a pleasant work environment free of harassment for all employees.